

**NewPath
Holdings, Inc.**

June 21, 2000

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S. W.
Washington, D.C. 20554

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98-147/

Re: Petition of The Association For Local Telecommunications Services for a
Declaratory Ruling on Broadband Loop Provisioning

Enclosed for filing with the Commission, please find an original and thirteen copies of NewPath Holdings, Inc.'s comments regarding the petition for declaratory ruling filed on May 17, 2000 by The Association for Local Telecommunications Services. Five copies are for distribution to the FCC Commissioners. An additional copy of this filing has been provided for date-stamp and return.

Please direct any questions concerning this filing to me at the address or phone number listed below. Thank you.

Sincerely,

Sandra Adams

Sandra Adams
Director of Regulatory
NewPath Holdings Inc.
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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

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In the Matter of)
)
Petition of The Association For Local)
Telecommunications Services for a)
Declaratory Ruling on Broadband Loop)
Provisioning)

CC Docket Nos. 98-147, 96-98,
98-141, NSD-L-00-48

COMMENTS OF NEWPATH HOLDINGS, INC.

On May 17, 2000, The Association for Local Telecommunications Services ("ALTS") filed a petition requesting the Federal Communications Commission (Commission) clarify, interpret and modify its rules governing aspects of loop provisioning by incumbent local exchange carriers ("ILECs"). Specifically ALTS requested the Commission to:

- Hold that Rule 51.319 requires ILECs to provide high-capacity loops, including (DS-1 and DS-3 level loops to any requesting Competitive Local Exchange Carrier ("CLEC") on an unbundled and nondiscriminatory basis;
- Hold that rule 51.319 require ILECS to provide entire loops to CLECs providing integrated voice and data services over a shared line;
- Adopt maximum intervals for provisioning of Unbundled Network Element ("UNE") loops;
- Require ILECs to provide access to subloops wherever possible in a manner that will support provision of multiple services over a shared line;
- Hold that ILECs must provision special access circuits within the same interval in which they provision these circuits for their own retail services;
- Determine a federal deadline by which all ILEC OSS interfaces have access;

- Ensure that all loop de-conditioning charges and other recurring and nonrecurring charges adhere to TELRIC principles; and
- Set *prima facie* federal penalties for ILEC failure to comply with these rules.

NewPath Holdings, Inc. (“NewPath”)¹ hereby respectfully submits its comments in support of the ALTS petition. NewPath agrees that the Commission’s goal of promoting competition in all telecommunications services, including advanced services, will be furthered by the clarification and modification of its rules governing the crucial aspects of loop provisioning. NewPath, on March 14, 2000, petitioned the Commission for a declaratory ruling regarding its Third Report and Order in CC Docket no. 96-98, FCC 99-355, released December 9, 1999 (Line Sharing Order).² While NewPath’s petition did not address the specific issues of the ALTS petition, both petitions have the goal expressed by the Commission in the Line Sharing Order to promote the availability of competitive broadband xDSL-based services, especially to residential and small business customers.³

As a competitive new entrant, NewPath shares many of the frustrations related to loop provisioning expressed by ALTS in its petition. The ability to obtain loops in a timely manner is crucial to the survival of an emerging CLEC such as NewPath. The ordering process of some of the ILECs is an obstacle to CLECs entering the market place within a time period that allows them to compete with the ILEC. As ALTS stated,⁴ the sequential provisioning intervals often

¹NewPath is a small, emerging provider of competitive data services located in Des Moines, Iowa. NewPath intends to provide advanced services to rural cities in the Midwestern United States.

²NewPath initiated a petition for the Commission to definitively and quickly find that the line sharing obligations announced in the Line Sharing Order and 47 C.F.R. § 51.319(h) include loops on which a carrier is reselling an ILEC’s analog voice service.

³ Line Sharing Order at ¶ 4

⁴ ALTS petition at 9

result in an overall deployment that exceeds the time that an ILEC waits to install its own service. For competition to develop a CLEC must be able to deploy service in a time period that is in parity with the ILEC. NewPath urges the Commission to require the ILECs to provision voice-grade and high-capacity loops for the CLECs in a time period comparable to the ILECs service provision to its retail customers.

NewPath agrees with ALTS that nondiscriminatory access to copper loops and subloop facilities is essential to achieving a competitive telecommunications market. The ILECs have control over the essential facilities necessary for the CLEC to compete with the ILEC. Unrestrained control of the essential facilities gives the ILEC the ability to structure network facilities to preclude comparable access by CLECs⁵.

In part II of its petition, ALTS addresses its concerns regarding the provisioning of xDSL loops. As an emerging provider of competitive xDSL services, NewPath recognizes that its survival depends on the ability to meet customers demand for service in a timely manner. To do this, NewPath must depend on information from its primary competitor the ILEC. To assure that competition develops in the xDSL market, NewPath joins ALTs in urging the Commission to act quickly to modify its rules to establish specific requirements for access to loops and loop information in a timely manner. NewPath supports ALTS request⁶ that the Commission modify its rules in the following areas:

1. Issue federal performance guidelines for ILEC pre-ordering functions for xDSL-capable loops.

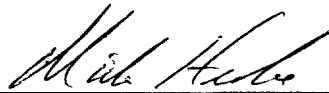
⁵ ALTS Petition at 13 – 14 provides a specific example, SBC's Project Pronto Proposal, of the ILECs ability to structure its network to impede competition.

⁶ ALTs petition at 22,24,28,29

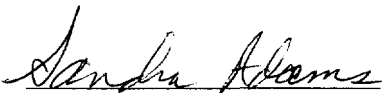
2. Require ILECs to provide xDSL-capable loops in a timely fashion.
3. Hold that ILECs must de-condition xDSL-capable loops in a timely manner.
4. ILEC loop de-conditioning must adhere to federal cost-based forward-looking cost principles.

In conclusion, NewPath urges the Commission to act upon both the NewPath and ALTS petitions. The requested rule clarifications and modifications will further the goals of promoting fair competition and the rapid deployment of advanced services.

Respectfully submitted,



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Sandra Adams
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